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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Special Committee decision of 9 June 2003 concerning Puerto Rico

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Contents

		Paragraphs	*Page*
I.	Introduction	1	2
II.	Background information	2–15	2
	A. General	2–4	2
	B. Constitutional and political status	5–15	2
III.	Recent developments	16–48	5
	A. Political	16–29	5
	B. Military	30–44	8
	C. Economic	45–48	11
IV.	Previous action taken by the United Nations	49–54	13
	A. General	49–50	13
	B. Action taken by the Special Committee	51–53	14
	C. Action taken by the General Assembly	54	15

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I. Introduction

1. At its 6th meeting, on 9 June 2003, the Special Committee adopted resolution A/AC.109/2003/22 on the question of the Special Committee decision of 10 June 2002 concerning Puerto Rico. In paragraph 9 of the resolution, the Special Committee requested the Rapporteur to submit a report to the Special Committee in 2004 on the implementation of the resolution. The present report was prepared by the Rapporteur of the Special Committee in compliance with that request. It considers Puerto Rico in the light of previous reports prepared by the Rapporteur, recent political and military developments in Puerto Rico and action taken by United Nations bodies on the matter.

II. Background information

A. General

2. Puerto Rico is the most easterly and smallest island of the Greater Antilles, in the Caribbean Sea. It has a land area of 8,959 square kilometres, including the small nearby islands of Vieques, Culebra and Mona. More than three fourths of Puerto Rico is mountainous and the range that runs its length reaches an elevation of 1,219 metres at its highest point.

3. According to the 2000 census, the population totals 3.81 million. In addition, there are reportedly some 3.4 million Puerto Ricans residing on the mainland of the United States of America.[1] The population is basically Spanish-speaking but often bilingual in English and Spanish. Puerto Rico is one of the most densely populated areas in the world, with an average of 429 people per square kilometre. It is highly urbanized, with the capital, San Juan, accounting for about one third of the population.[2]

4. United States citizenship is granted to people born in Puerto Rico, but they do not have the right to vote in United States presidential or congressional elections unless they reside on the United States mainland. Under the current Commonwealth arrangements, authority over defence, international relations, external trade and monetary matters remains with the United States, while Puerto Rico has autonomy on tax matters, social policies and most local affairs. The main political parties in the Territory differentiate themselves mostly by their position on the ultimate political status of Puerto Rico, none being satisfied with the status quo. The Partido Popular Democrático (PPD), currently in power, favours an enhanced Commonwealth status, under which Puerto Ricans would remain under United States sovereignty and retain United States citizenship, but would have greater governmental authority over their own affairs and more latitude to establish regional and international relations. The Partido Nuevo Progresista (PNP) favours Puerto Rico becoming a fully integrated state of the United States. The third party, the Partido Independentista Puertorriqueño (PIP), favours independence for the island.

B. Constitutional and political status

5. Puerto Rico was ceded to the United States and became a military protectorate at the end of the Spanish-American War. In 1900 the United States Congress

replaced the military Government with a civilian one that included a popularly elected legislature, the Cámara de Delegados. In 1917 the Jones Act added a bill of rights and a popularly elected Senate to the governmental machinery. The Act also conferred United States citizenship on all Puerto Ricans, although the measure was opposed by the territorial legislative body.

6. In 1948 Puerto Rico's Legislative Assembly passed a law that made it a felony to advocate the forceful destruction or overthrow of the island's Government.[3] Also in 1948 the first popular gubernatorial elections were held, ending the succession of Washington, D.C.-appointed Governors. In 1950 the United States Congress provided for the organization of a constitutional Government by the people of Puerto Rico. The Constitution was approved by the Puerto Ricans in March 1952 and later adopted by the United States Congress, on the condition that some changes be made to the Bill of Rights.[4] The popular referendum and congressional ratification of the Constitution created the Commonwealth, a loose translation of the Spanish term Estado Libre Asociado.

7. The Constitution of the Commonwealth of Puerto Rico is described in detail in paragraphs 91 to 119 of the Rapporteur's report of 1974 (A/AC.109/L.976). In brief, the Government consists of: (a) a Governor elected for four years at each general election; (b) a Legislative Assembly comprising two houses — the Senate (27 members) and the House of Representatives (51 members elected by direct vote of the adult population at each general election); and (c) a Supreme Court and lower courts. Puerto Rico is represented in the Government of the United States by a Resident Commissioner, who is a non-voting member of the United States House of Representatives, but a voting member of the committees on which he or she sits. Although it has its own courts, the Puerto Rican legal system is integrated into the United States federal judicial system via the First Circuit Court of Appeals, and federal law prevails over local law.

8. Even after the 1952 establishment of a constitutional Government for Puerto Rico, all laws concerning the Territory's relations with the United States remained in force through the Federal Relations Act (see A/AC.109/L.976, paras. 120-132), under which Puerto Rico was brought within the trade, tariff and monetary systems of the United States. The United States also undertook responsibility for the defence of Puerto Rico. In 1958 Puerto Rico's Legislative Assembly requested changes in the Federal Relations Act. In 1959 three bills requesting changes in the political status of the Territory were submitted to the United States Congress, but no action was taken on any of them. When in 1967 a plebiscite was held, offering inhabitants the choice between independence, becoming a part of the United States, or maintaining the Commonwealth status, the latter option was upheld by 60.41 per cent of voters.

9. The results of a 1993 plebiscite, with virtually identical options to those in the 1967 plebiscite, were 48.4 per cent for the status quo (Commonwealth), 46.2 per cent for statehood and 4 per cent for independence. Following this result, the Legislative Assembly of Puerto Rico requested the United States Congress to decide whether the definition of Commonwealth, as presented on the ballot, was acceptable. Congress replied negatively, arguing that the definition contained expectations that were not viable (see AC.109/1999/L.3, paras. 172-180). The Puerto Rican Legislative Assembly then voted to hold another plebiscite in 1998. In February 1997 the Young Bill was introduced in the United States Congress, seeking

to make the results of the proposed 1998 Puerto Rican plebiscite binding on the United States Government. The bill was adopted by the House of Representatives in March 1998, by a one-vote margin of 209 to 208, but it was not acted upon by the Senate before the end of the congressional session and thus expired.

10. The organization of the 1998 plebiscite continued as scheduled, despite the failure of Congress to bind the United States Government to the results. There was, however, much controversy regarding the wording of the ballot choices. The pro-Commonwealth PPD protested that the ballots, as drafted, misrepresented the Commonwealth status and deliberately sought to confuse its supporters by including another option, "Free Association", whose definition was very similar to "Commonwealth status." PPD insisted that a fifth option, "None of the above", be included on the ballot, and it encouraged its supporters to choose that option. The results of the plebiscite held on 13 December 1998 were as follows: 50.4 per cent for "None of the above"; 46.7 per cent for statehood; 2.3 per cent for independence; 0.3 per cent for free association; and 0.06 per cent for Commonwealth.

11. After the 1998 plebiscite, United States President William J. Clinton stated that he would work with Congress and Puerto Rico's leaders to clarify the status issue. He then established the President's Task Force on Puerto Rico's Status and instructed its co-Chairs to conduct an ongoing dialogue with the Governor and Resident Commissioner of Puerto Rico, Puerto Rico's major political parties and other groups that advocated a change in the island's status. The aim of the dialogue was to seek to clarify the options for Puerto Rico's future status and enable Puerto Ricans to choose among statehood, Commonwealth and independence.

12. When President George W. Bush took office in January 2001, he amended his predecessor's Executive Order on the Task Force on Puerto Rico's Status by extending the deadline for the Task Force's recommendations from 1 May 2001 to 1 August 2001.[5] In March 2002 the Puerto Rican media reported that the White House had released the names of the interim members of the Task Force and added that the list included assistants to almost all the members of President Bush's Cabinet. According to the White House spokesperson quoted by the media, the Task Force was reviewing Puerto Rico's options and the Justice Department was providing guidance on legal and constitutional matters.[6]

13. On 5 December 2003, the White House named the 16 members of the Task Force. At the same time, President Bush amended President Clinton's Executive Order to require the Task Force to report on the progress made every two years instead of annually. In announcing the membership of the Task Force, a White House news release said that it "would seek to implement the policy set forth" in President Clinton's order. Leaders of both the pro-Commonwealth PPD and the pro-independence PIP have said that the move did not indicate any serious intention on the part of President Bush to take action on Puerto Rico's political status in the near future, while the pro-statehood PNP welcomed the announcement as a sign that Washington was interested in dealing with the issue soon after the Puerto Rico and United States elections in November 2004.[7]

14. Resident Commissioner Aníbal Acevedo Vilá and current Governor Sila Calderón, both of the governing pro-Commonwealth PPD, lobbied against implementation of President Clinton's order because of disagreement with federal officials who have characterized their own status proposal as impossible. The lobbying delayed the initiation of the Task Force's work in 2001, leading the White

House to question whether it would be worthwhile to proceed, since the issue could not be resolved without constructive action by the insular Government. However, actions and plans by Governor Calderón and Mr. Acevedo, such as trying to interact with foreign Governments as if Puerto Rico were a sovereign nation, led the White House to move forward to try to resolve the issue.[8]

15. The Calderón/Acevedo proposal calls for Puerto Rico to be recognized as a nation in a binding union with the United States. Under the union, the Commonwealth would determine the application of federal laws and enter into agreements with foreign countries and the United States would continue to grant citizenship and all current programme aid to Puerto Rico.[9]

III. Recent developments

A. Political

16. The last general elections held in Puerto Rico took place in November 2000. Voters elected the Governor and the delegate to the United States Congress, members of the local Senate and Chamber of Representatives and candidates for a variety of municipal and local positions.

17. The pro-Commonwealth PPD won the elections, taking control of the executive branch and both houses of the legislature from the pro-statehood PNP. The PPD gubernatorial candidate, Ms. Calderón, became the first female Governor of Puerto Rico, replacing the PNP incumbent, Pedro Roselló, who had held the post for eight years. The third candidate in the gubernatorial race, Rubén Berrios Martínez of the pro-independence PIP, came in a distant third.

18. PPD won a significant majority in the Senate, where it holds 19 seats, against 8 seats for PNP and 1 seat for PIP. Similarly, in the Chamber of Representatives, PPD holds 30 seats, PNP 20 and PIP 1.

19. In the elections for the position of Resident Commissioner (Puerto Rico's non-voting representative in the United States Congress) Mr. Acevedo of PPD defeated Carlos Romero Barceló, the PNP incumbent.

20. On 27 May 2003, Governor Calderón announced that she would not seek re-election in 2004. The current Resident Commissioner, Mr. Acevedo, will be the PPD candidate for the Governor's post. He will face former Governor Pedro Rosselló of PNP, the pro-statehood party. The main issues in the campaign are the economy, corruption and crime. Mr. Roselló promised to hold a referendum in 2005 to urge the United States Congress to present non-territorial options to solve the status of Puerto Rico should he be elected Governor.

21. During 2001, Governor Calderón's first year in office, the two issues that had dominated the 2000 campaign (Puerto Rico's constitutional status and United States military exercises on Vieques) became subordinate to efforts to revive the economy (see A/AC.109/2003/L.3, paras. 37-40) and the fight against corruption. The latter continued in 2002 with indictments issued against 17 former PNP government officials on charges ranging from theft and extortion to bribery.[10] In January 2002 Governor Calderón announced measures to stem corruption, including the investigation of all government agencies that had contracts with individuals and

firms accused of fraud, and the creation of a financial ethics committee for electoral campaigns. Subsequently, the opposition raised counter-charges, alleging misuse of public funds by the Governor and her party.[11] On 18 June 2002, the Governor enacted three new laws to fight crime and corruption. Moreover, the budget for the 2003 fiscal year included $31 million in additional funds to fight corruption.[12] In a speech at Harvard University in October 2003, Governor Calderón stated that the island that was once rife with public corruption was being transformed into a values-based democracy. "I was concerned that children of Puerto Rico would be accustomed to seeing their public officials led away in handcuffs", she said, referring to television broadcasts of corruption proceedings against high-level officials. "It seemed that no part of Government was free of corruption", she added. The Governor stressed that her Administration started by strengthening financial institutions and making job creation a priority. Additionally, in 2002 $1 billion had been invested to help the poor and dispossessed build new homes and to bring back hope, dignity and respect to places that had been forgotten.[13]

22. With respect to the political status of Puerto Rico and its relationship with the United States, during her first two years as Governor, Ms. Calderón reiterated on many occasions her belief that any initiative in this regard should emanate from Puerto Rico rather than from Washington, D.C.[14] Thus, rather than engaging directly with the Washington Task Force, she continued to defend a proposal she had first made in a June 2000 White House meeting between President Clinton, Puerto Rican political leaders and members of the United States Congress: the creation of a Puerto Rican Unity and Consensus Commission, comprising representatives of the three main parties, two jurists of renown and three private citizens not affiliated with any of the parties, to define the process of determining a future political status. Throughout this time, the proposal was rejected by the pro-statehood PNP, which maintained that any discussion of this nature should be held with the United States authorities and, thus, the Commission never met.

23. In legislative terms, the debate on political status was brought to the forefront in April 2002, when both the Senate and the Legislative Assembly of Puerto Rico approved resolutions recommending the establishment of a Constituent Assembly (Asamblea de Status del Pueblo Puertorriqueño) as the most viable and appropriate mechanism to determine the island's future status.[15] This recommendation was supported by PPD, by the pro-independence PIP party and by entities such as the Colegio de Abogados de Puerto Rico (Puerto Rican Bar Association). However, it was opposed by PNP, which again viewed the proposed mechanism as a futile, unilateral exercise because it did not engage the United States Government from the outset.[16]

24. The Governor has reaffirmed her support for an enhanced Commonwealth status, but has also reiterated the need for Puerto Ricans to be unified on how to proceed before engaging the White House and Congress in any discussion. In February 2003 the Governor announced her decision to postpone indefinitely all efforts to move forward on the status issue owing to lack of consensus among the island's principal political parties. She noted that without a broad Puerto Rican consensus, it was unlikely that there would be a favourable climate for the United States Congress to deal with the issue. In spite of this announcement, representatives of the pro-independence PIP stated that they would continue to discuss the status issue and that they expected to meet with the Governor in the near future. On 28 February 2003, a group of 15 Puerto Rican university professors, attorneys and

legislative advisers announced the creation of the Committee for the Study of Puerto Rico's Political Future, without the participation of the pro-statehood movement.[17]

25. As described in previous reports, apart from general political questions, three specific issues have been raised before the Special Committee in recent years as resulting from the particular political status of Puerto Rico and its relationship with the United States. These are: (a) the continuing United States military presence in Puerto Rico, particularly on the island of Vieques; (b) the imprisonment in the United States of pro-independence Puerto Ricans accused of seditious conspiracy and weapons possession; and (c) the application of the death penalty to Puerto Ricans convicted on federal charges.

26. As in previous reports, the issue of the United States military presence on Vieques will be dealt with in the section on military developments (see paras. 30-44 below).

27. The issue of the Puerto Ricans accused of seditious conspiracy and weapons possession some 20 years ago and imprisoned in the United States has also been covered in previous reports. In essence, a number of Puerto Rican organizations and political and civil leaders have claimed over the years that these are essentially political prisoners and that they received disproportionately long sentences. In August 1999 President Clinton offered to release the prisoners conditionally if they formally renounced the use of violence and this offer was accepted by 11 of the original 15 prisoners. A twelfth accepted a bargain by which he would be set free in five years. Supporters of those who were released, however, noted that the conditions include tight controls over their actions and statements, which effectively prevent them from continuing to advocate independence for Puerto Rico. On 10 September 2001 a petition for the early termination of supervision was submitted on behalf of the nine former prisoners still subject to parole conditions. In the aftermath of the events of 11 September 2001, under new rules implemented by the United States Attorney-General, two of the remaining prisoners were placed in punitive segregation, even though it is reported that there was no reason to believe that they had any connection to those events.[18] Two of the prisoners were released, Antonio Camacho Negrón in May 2002 and José Solís Jordán in November 2002.[19]

28. The issue of the application of the death penalty to Puerto Ricans convicted of crimes was described in detail in paragraph 23 of the 2000 report (A/AC.109/2000/L.3), as were recent cases in which the death penalty was sought against Puerto Ricans. Despite the fact that the death penalty is prohibited in Puerto Rico, the United States Department of Justice has sought the death penalty for 15 Puerto Rican defendants since 1992, resulting in one of the highest death penalty rates per capita of any state or Territory within the United States. Héctor Óscar Acosta Martínez and Joel Rivera Alejandro were two Puerto Rican men put on trial for whom the prosecution would have sought the death penalty, if found guilty, despite the ruling by the United States District Court Judge Salvador Casellas that the death penalty for federal crimes did not apply in Puerto Rico because its people had no vote in federal elections. The American Civil Liberties Union had strongly supported that decision and had noted that it was the first time a United States District Judge had used Puerto Rico's political status to reject the Federal Government's attempt to apply the death penalty there.[20] In June 2001 the United States First Circuit Court of Appeals in Boston rebutted the arguments of Judge Casellas and ruled that the death penalty was applicable to federal crimes committed

in Puerto Rico under the established precedent that local government cannot circumvent federal laws.[21] On 31 July 2003 it was announced that the two men were acquitted.

29. Popular opinion in Puerto Rico is strongly against the death penalty and a coalition of religious and community organizations, as well as political leaders, have vowed to continue fighting attempts to impose capital punishment on the island. Governor Calderón has said that strengthening the status quo, advocated by PNP, the pro-Commonwealth party, would be one way of preventing federal law from overriding local law.[22] Moreover, she has stated that the issue would be an integral part of an effort to improve the current political status of Puerto Rico.[23]

B. Military

30. As has been described in previous reports, Puerto Rico has for many years held an important military-strategic position within the United States Southern Command. In addition to its other military installations in Puerto Rico, since 1941 the United States Navy has operated on the islet of Vieques, which has 9,500 inhabitants and is located eight miles off Puerto Rico's east coast. Vieques has been used for naval gunfire support and air-to-ground ordnance training. On 1 May 2003 the United States Navy ceased all military operations on the island. Details of the military exercises conducted on Vieques during the period that the Navy owned part of the island, and of the related civil disobedience campaigns, arrests and lawsuits are to be found in A/AC.109/1999/L.13, paragraphs 18 to 22, A/AC.109/2000/L.3, paragraphs 24 to 30, A/AC.109/2001/L.3, paragraphs 29 to 38, and A/AC.109/2002/L.4, paragraphs 27 to 36. According to a news release following the cessation of the military operations, the Department of the Navy would retain responsibility for the environmental clean-up of the property and would demolish and remove all facilities and structures in the area. The media reports about the official end of the Navy's presence on Vieques on 1 May 2003 were followed by four days of activities celebrating the end of the bombing and the start of a new future for the island.[24]

31. The departure of the United States Navy from the island of Vieques followed a period of protests, often violent, in Vieques and of various political initiatives by the United States Administration and by Puerto Rican representatives to clarify the future of Navy activities on the island.

32. On 29 July 2001, a non-binding referendum was held on Vieques. The Navy presence was opposed by 68 per cent of the voters, 30 per cent voted for the Navy to stay indefinitely and 1.7 per cent favoured the Navy staying only until 2003. Governor Calderón stated that the people of Vieques had made their decision and had spoken clearly, and announced that she would send the results to the White House and to Congress. The response of the White House was to reiterate that the Navy would withdraw from Vieques, as scheduled, in May 2003 and would continue training with dummy bombs until then.[25]

33. On 20 October 2002, the Governor announced that she had received official confirmation from the United States Government that the Navy's activities in Vieques would cease in May 2003, as President Bush had stated earlier in the year. In an official communiqué she commended the tireless work of Vieques residents,

the numerous representatives of political parties and civil society and the many supporters in the United States who had fought for this outcome.[26]

34. On 10 January 2003, the United States Secretary of the Navy certified in writing to Congress that, as planned, the Navy and the Marine Corps would cease military training on Vieques on 1 May 2003, after which they would use alternative training sites in the south-eastern United States and at sea.[27] The Puerto Rican Governor stated that this constituted a victory for the island and for the persevering people of Vieques. She immediately appointed a committee to coordinate the closing of the firing range. For their part, officials and protesters on Vieques expressed jubilation and stated that once the exercises were over they would transfer their energies to demanding that the Navy and the Department of the Interior assess the environmental damage of the past 60 years and commit to a thorough clean-up of the area. On 13 January 2003 the Navy began its last military exercises over Vieques, involving aerial bombing from fighter jets using inert munitions. Throughout the following days there were further arrests of protesters, as well as tense confrontations between the protesters and supporters of the pro-statehood PNP who maintained that the Navy should stay.[28]

35. Following the withdrawal of the Navy from Vieques, three related issues remain to be clarified: (a) the future development of Vieques and its environmental clean-up; (b) definitive conclusions regarding the effects of the military exercises on the health of Vieques residents; and (c) the future of the Roosevelt Roads Naval Station on the main island of Puerto Rico.

36. Regarding the development of Vieques, the Puerto Rican Government has announced infrastructure and job creation investments of $50 million over the next four years within the Renacer Viequense programme.[29] At the same time, the island is attracting new tourism ventures, such as the recently opened 156-room Wyndham Martineau Bay Hotel.[30] The Puerto Rican Government had made it clear that it expected federal authorities to clean up former Navy lands, and the Administrator of the Environmental Protection Agency (EPA) had reportedly stated that EPA would ensure that the Department of Defense complied with federal environmental laws.

37. Plans called for most of Camp García, a 12,000-acre military area, to be transferred to the Department of the Interior to manage as a wildlife refuge, which would call for a lower standard of clean-up than if it were developed for public use, while the 900-acre live impact bombing area would be fenced off and access permanently denied. In June 2002 it was announced that 3,100 acres relinquished by the United States Navy in 2001 could be held in joint jurisdiction by the Department of the Interior's Fish and Wildlife Service and the Puerto Rican Government.[31] However, increasing calls from within Puerto Rico asked for territorial authorities to win title to at least some of the former Navy lands. In January 2003 the leader of PIP, Mr. Berrios (who spent more than a year protesting outside Camp García), urged the Governor to seek an amendment to the federal law that transfers the land to the Department of the Interior, to ensure that it is never again used for military purposes, is cleansed of environmental hazards and can be given to the Puerto Rican people.[32] In April 2003 Puerto Rico's Representative to the United States Congress obtained further assurances from the Department of Defense that the Navy would clean up its lands.[33]

38. On 9 May 2003, the office of the Puerto Rico Resident Commissioner announced that the Armed Services Committee of the United States Senate had

approved an amendment ordering the Navy, in cooperation with the Department of the Interior and EPA, to undertake a clean-up project of the land in Vieques which had been transferred to the Department of the Interior. According to the office of the Resident Commissioner, the amendment orders the Navy, in consultation with the Department of the Interior and EPA, to develop and submit to defence committees in the United States Congress, no later than one year after the transfer of the lands, a detailed clean-up plan. The plan is supposed to include, to the extent possible, a detailed list of all clean-up work, remedial measures, starting and completion dates and the amount of funds necessary to complete the work.[34] It was later announced that the United States Congress had approved an allocation of $40 million for the Navy to be used in Vieques as compensation and to prepare Vieques for the future.[35]

39. Presently the island is sectioned off, with the westward segment under the United States Naval Southern Command responsibility and the eastern section of the island under the joint responsibility of EPA and the Puerto Rico Environmental Quality Board. The United States Navy has designated the western part of the island an installation restoration programme, a navy term for a feasibility study to assess the environmental impact of the island's ecological situation. The execution of this programme is crucial in identifying what toxic substances exist in order to decide whether to recommend the site for "super fund" designation. The Navy began the testing as far back as 2001, while EPA began its testing on the eastern side of the island after the Navy's departure.

40. On 5 January 2004, EPA announced the beginning of the investigation of areas of eastern Vieques under the Resource Conservation and Recovery Act. As part of this investigation, contractors working for the United States Navy will be sampling surface and subsurface soil and ground water from 10 newly installed wells. EPA, in cooperation with the Puerto Rico Environmental Quality Board, will oversee the investigation. EPA will also collect soil and groundwater samples and will conduct independent analyses. The Navy will submit a draft report on the results of the sampling and analysis to EPA and the Puerto Rico Environmental Quality Board approximately 120 days after the sampling is completed. EPA plans to make the draft report available for public review and comments following an internal review.[36] While the process is still unfolding to determine how bad the environmental damage will be, a deciding conclusion would be the designation of "super fund" status. Governor Calderón has petitioned EPA formally to place Vieques on the national priorities for super fund status.

41. A delegation of New York politicians visited Vieques and stated that they wanted to make sure that the United States Government did adequate clean-up following the Navy's departure. The representatives were briefed by the United States Fish and Wildlife Service, which has managed some 15,000 acres since the Navy's withdrawal. Turning part of the island over to the Service is viewed unfavourably by most Puerto Ricans who did not see this agency voicing any objections when the United States Navy used the island for bombing exercises.

42. Regarding the possible effects of the military exercises on the health of Vieques residents, the debate continues between the Navy, which maintains that its bombing and training exercises have done nothing to harm the health of Vieques residents, and those who maintain that there have been abnormally high cancer rates and other health hazards on the island. While Puerto Rican Health Department statistics indicate that Vieques cancer rates were about 26 per cent above Puerto

Rico's average throughout much of the 1980s and early 1990s, in October 2002 the Puerto Rican Health Secretary announced that a study was examining a variety of potential causes of cancer, including diet and limited health-care facilities, as well as the Navy exercises. In the meantime, a study conducted by the federal Agency for Toxic Substances and Disease Registry on potential pathways of contamination between the Navy bombing range and the civilian area about 16 kilometres away concluded in December 2002 that there was no apparent public health hazard.[37] Further studies are being conducted.

43. The third related issue is the future of the Roosevelt Roads Naval Station, home to the United States Naval Forces Southern Command, which was built in 1941 on the eastern tip of Puerto Rico, seven miles from Vieques. Covering 8,612 acres, it employs some 4,800 permanent staff and temporary contractors and is estimated by the Navy to inject more than $300 million into the local economy each year. Fears over the closing of the base, which is one of the largest employers in Puerto Rico, arose from statements by the Commander-in-Chief of the Atlantic Fleet, Admiral Robert Natter, who suggested in January 2003 that without Vieques the Roosevelt Roads facilities would no longer be necessary.[38] Following the Navy's departure from Vieques, it was expected that the United States Government would close the Roosevelt Roads Naval Station. On 24 September 2003, the United States Congress formally approved the closing of the Naval Station as part of a defence-spending bill passed in Washington. Puerto Rico's Resident Commissioner, who opposed the closing of the naval base and fought to have the land transferred to the territorial Government, said that Puerto Rico's Government would be able to participate in deciding on future uses of base land and that it would have access to about 40 per cent of the revenues from the sale of lands.[39] On 2 October 2003, President Bush signed the decision to close the Roosevelt Roads Naval Base by 1 April 2004. According to the law, the United States Navy Secretary will have six months to close the base. Under this law, the Federal Government may decide to keep some of the base facilities and allow local authorities to develop military land for the benefit of the public.[40] The naval base effectively closed on 30 January 2004. On 31 March 2004 the status of the base was changed from that of a United States military base to "caretaker status".

44. Puerto Rico's Resident Commissioner announced that the Government of Puerto Rico in cooperation with the Pentagon had started working to begin developing the land immediately after the closing of the base. He said that the Department of Commerce had a development plan which was viewed favourably by the United States Department of Defense and Puerto Rico's Governor.[41]

C. Economic

45. Puerto Rico has an industrialized economy with particular characteristics derived from its island geography and close institutional links to the United States. Its per capita gross domestic product is reported to be $11,200, whereas that of the United States is reported to be $36,300.[42] Economic performance is closely tied to the United States business cycle, its tax regime and the level of federal transfers. The manufacturing sector, which includes operations in pharmaceuticals, electronics and scientific and precision instruments, accounts for more than 39 per cent of the gross domestic product, while agriculture contributes less than 1 per cent. Industrialization was encouraged by the Industrial Incentive Act of 1954, which

granted concessions to North American companies that located plants on the island. In addition, section 936 of the United States Federal Tax Code provided generous tax incentives to such companies, including the right to tax-free repatriation of profits. Throughout the years, these policies helped to make Puerto Rico an "offshore manufacturing outpost"[43] of the United States, transforming the economy from a sugar-dominated Caribbean plantation economy to a modern industrialized one. However, in 1996 a budget-conscious United States Congress adopted legislation that would begin phasing out these tax incentives as part of its budget reconciliation and abolish them entirely by 2007. In addition, labour-intensive manufacturing of textile products and clothing has declined as a result of overseas competition. Thus, a major challenge for Puerto Rico's economic policy over the past several years has been to prepare the economy for the effects of the phase-out of section 936 tax exemptions by reducing the island's dependence on manufacturing and promoting the development of the high-technology and tourism sectors in particular. PPD gubernatorial candidate Aníbal Acevedo Vilá has stated his intention, if elected Governor, to shift Puerto Rico's economy from one that is reliant on the United States manufacturing sector to one that is focused on exporting services to Latin America.[44]

46. Upon being elected Governor in November 2000, Sila Calderón undertook to reduce poverty in Puerto Rico by promoting rapid economic growth. To do this she assembled a team of technocrats from the private and public sectors, but ruled out raising taxes to cover Puerto Rico's public debt and its government deficit. Governor Calderón's 2002 budget, presented in March 2001, totalled expenditures of $20.6 billion. The 2003 budget, presented to Puerto Rico's Congress in February 2002, totalled $21.85 billion. The 2004 budget is $23.4 billion, that is, $1.6 billion, or 7.3 per cent more than the 2003 budget. Of the $23.4 billion, approximately $16.6 billion are allocated for operational expenses, $4 billion for capital improvements and $2.9 billion for debt servicing.[45]

47. A programme of investment in infrastructure and public works intended to stimulate the economy (part of a total $6 billion investment package over four years), which includes the trans-shipment Port of the Americas in Ponce, a Convention Centre in San Juan and other, lower profile projects, is under way despite its slow start. The Mayor of Ponce has been urging the Government to approve his municipality's land use plan, which was submitted to the Puerto Rico Planning Board in February 2003. Work on the project was expected to start in early 2004, after the land use is legally ratified by the Planning Board. It was announced on 4 February 2004 that Puerto Rico had opened bidding from local and international companies to build the port in Ponce. The port is expected to be among the largest in the Americas. Supporters of the project expect it to generate thousands of jobs. Experts point out, however, that its success will depend in part on labour costs, which are usually higher in Puerto Rico than in other countries in the Caribbean and Latin America. In addition, they noted that success could depend on whether Puerto Rico was successful in lobbying the United States Government to change the Jones Act of 1917, which requires cargo between Puerto Rico and the United States to be transported on American-built and operated ships, which are generally more expensive.[46] According to the President of the Puerto Rico Planning Board, economic indicators point to a continuing recovery in the local economy that will result in real gross national product growth of about 2.7 per cent in fiscal year 2003/04. The Planning Board projects a 3.8 per cent increase in private consumption

and a 3.3 per cent rise in personal income. In September 2003 the unemployment rate was 12.2 per cent, down from 12.6 per cent a year earlier, and in October 2003 the Labour Department announced a further decrease to 11.7 per cent. Tourism is also doing well, with occupancy rates in tourist hotels rising to 77 per cent in the first half of fiscal year 2003/04, a gain of more than 5 percentage points from a year earlier. A setback in the local economy was suffered in mid-November 2003, after seven days of heavy rains, prompting the Governor to declare a state of emergency in seven municipalities and to sign an executive order allocating $3.5 million.[47]

48. Throughout 2002 Governor Calderón continued her lobbying of the United States Congress to modify tax legislation in order to bring new companies to the island. Reportedly, during the previous congressional session, she had submitted to the Ways and Means Subcommittee of Congress and the Finance Committee of the Senate a proposal that would amend section 956 of the Internal Revenue Code and, essentially, recreate section 936 as it was before the Federal Government decided to eliminate most of the tax exemptions. Thus, for companies setting up subsidiaries in Puerto Rico as controlled foreign corporations, the tax payable on profit remittances to the mainland would be cut from 35 per cent to 10 per cent or less. However, in late September 2003, the United States Senate Finance Committee rejected the amendment to section 956 and, as a result, the proposal did not go to the United States Congress. Although this development is considered detrimental to the economy of Puerto Rico and its full impact on manufacturers operating in Puerto Rico is still unclear, many economists both in Puerto Rico and the United States have argued that the Government should be focused on diversifying the economy, i.e. to information technology, and should take advantage of its bilingual inhabitants, rather than continuing to rely on new incentives for United States businesses.

IV. Previous action taken by the United Nations

A. General

49. Since 1953 the United States of America has maintained a consistent position regarding the status of Puerto Rico and the competence of United Nations organs to examine that status, based on General Assembly resolution 748 (VIII) of 27 November 1953, by which the Assembly released the United States from its obligations under Chapter XI of the Charter of the United Nations. Since then, the United States has maintained that Puerto Rico has exercised its right to self-determination, has attained a full measure of self-government, has decided freely and democratically to enter into a free association with the United States and is therefore, as stated explicitly in resolution 748 (VIII), beyond the purview of United Nations consideration.

50. Information on action taken by United Nations bodies with respect to Puerto Rico prior to 1974 is contained in the 1973 report of the Rapporteur (A/AC.109/L.976). Information since then can be found as follows: A/AC.109/L.1191 and Add.1 (for 1974 to 1976); A/AC.109/L.1334 and Add.1-3 (for 1977 and 1978); A/AC.109/L.1436 (for 1979 to 1981); A/AC.109/L.1572 (for 1981 to 1985); A/AC.109/1999/L.13 (for 1984 to 1998); A/AC.109/2000/L.3 (for

1999); A/AC.109/2001/L.3 (for 2000); A/AC.109/2002/L.4 (for 2001); and A/AC.109/2003/L.3 (for 2002).

B. Action taken by the Special Committee

51. At its 1st meeting, on 11 February 2004, by adopting the suggestions relating to the organization of work put forward by the Chairman (see A/AC.109/2004/L.2), the Special Committee decided to take up as appropriate the item entitled "Special Committee decision of 9 June 2003 concerning Puerto Rico" and to consider it at plenary meetings.

52. At the 5th meeting, on 9 June 2003, the Chairman of the Special Committee drew attention to a number of communications received from organizations requesting to be heard on Puerto Rico by the Committee. At the same meeting, the Special Committee agreed to accede to those requests and heard the representatives of the organizations concerned at its 5th and 6th meetings, as indicated below (see A/AC.109/2003/SR.5 and 6):

5th meeting

Jorge Farinacci García (Frente Socialista); Angel Ortiz Guzmán (PROELA); Berthaida Seijo Ortiz (Colegio de Abogados de Puerto Rico); Salvador Vargas, Jr. (Concerned Puerto Rican Americans); Alice Hernández (Partido Nacionalista de Puerto Rico); Miguel Otero Chavez (Gran Oriente Nacional de Puerto Rico); Francisco Velgara (Vieques Support Campaign); Betty Brassell (United for Vieques, Puerto Rico); Benjamin Ramos Rosado (ProLibertad Freedom Campaign); Fernando Martín García (Puerto Rican Independence Party); Vanessa Ramos (American Association of Jurists); Carlos González (Comité Pro Rescate y Desarrollo de Vieques); Manuel Rivera (Puertoriqueños Unidos en Acción); José Adames (Al Frente); Nilda Luz Rexach (National Advancement for Puerto Rican Culture); Anita Vélez Mitchell (Primavida); Julio Antonio Muriente Pérez (Nuevo Movimiento Independentista Puertorriqueño); Wilma Reverón Collazo (Comité Puerto Rico en la ONU);

6th meeting

Noel Colón Martínez (Congreso Nacional Hostosiano de Puerto Rico); Roger Calero (Political Rights Defense Fund); Martin Koppel (Social Workers Party); Luis Rosa-Pérez (Puertorican Human Rights Committee); Ricardo Gabriel (Hostos Puerto Rican Club at Hunter College); Anthony Melé (65th Honor Task Force).

53. At the 6th meeting, the representative of Cuba introduced draft resolution A/AC.109/2003/L.7. The representative of Venezuela explained his support for the text. Also at that meeting, the Special Committee adopted resolution A/AC.109/2003/22 without a vote. Subsequently, the representative of Cuba made a statement.

C. Action taken by the General Assembly

54. During the fifty-eighth session of the General Assembly, no draft resolution was submitted on this issue to the Assembly for action. Introducing the report of the Special Committee at the 72nd meeting of the Assembly, on 9 December 2003, the Acting Chairman of the Special Committee recalled that, at the end of its session, the Committee had adopted a resolution on Puerto Rico by consensus.

Notes

[1] EFE newswire, 18 October 2001.

[2] Economist Intelligence Unit, Puerto Rico Country Profile 2002.

[3] Ivonne Acosta, *La Mordaza: Puerto Rico, 1948-1957* (Rio Piedras, Editorial Edil, 1989), p. 13.

[4] Ratification was contingent on the elimination of section 20 of the proposed Bill of Rights, which recognized, inter alia, rights to social protection in the event of unemployment, sickness, old age or disability, the right to obtain work, the right to an adequate standard of living and the rights of mothers and children to special care and assistance (José Trias Monge, *Puerto Rico: The Trials of the Oldest Colony in the World* (New Haven, Yale University Press, 1997), pp. 114 and 117).

[5] www.whitehouse.gov/news/releases/2001/04.

[6] www.puertorico-herald.org/issues/2002/vol9n09/WashUpdate.

[7] Economic Intelligence Unit, Country Report Puerto Rico, December 2003.

[8] *Puerto Rico Herald*, 15 December 2003.

[9] Ibid.

[10] *The Washington Post*, 15 August 2001, and *The New York Times*, 24 January 2002.

[11] *Financial Times*, 25 March 2002.

[12] www.fortaleza.gobierno.pr, 18 June 2002. One of the three laws established the Office of the Attorney General with functional and financial autonomy to investigate crime in the Territory; the second, known as the Código de Ética de Contratistas, regulates the conduct of all those who provide services to the Government; and the third established the Registro Uniforme de Licitadores, which stipulates the conditions that must be met by all entities that bid for public contracts.

[13] www.ksg.harvard.edu/news/news/2003/calderon_101703.htm, 22 January 2004.

[14] Press release, Sila María Calderón, 28 June 2000.

[15] Cámara de Representantes, resolution 3873, 25 April 2002.

[16] *The San Juan Star*, 8 October 2002.

[17] Associated Press, 15, 17 and 24 February 2003.

[18] Information from lawyer Jan Susler provided by Congreso Nacional Hostosiano, 2 May 2002.

[19] www.boricuanacional.org.

[20] *ACLU News*, 19 July 2000.

[21] *The Miami Herald*, 6 June 2001.

[22] *Financial Times*, 28 July 2003.

[23] Reuters, 6 July 2003.

[24] www.news.navy.mil, 30 April 2003, and Associated Press, Reuters and *The New York Times*, 1 May 2003.

[25] *The New York Times*, 29 July 2001, and *Chicago Sun-Times*, 31 July 2001.

[26] www.fortaleza.gobierno.pr, comunicados, 20 October 2002.

[27] Pentagon news release, 10 January 2003, and Reuters, 10 January 2003.

[28] Associated Press, 10-16 January 2003.

[29] www.fortaleza.gobierno.pr, 6 June 2002 and 20 October 2002.

[30] Associated Press, 25 February 2003.

[31] www.fortaleza.gobierno.pr, 6 June 2002, and *The Miami Herald*, 8 June 2002.

[32] Associated Press, 14 January 2003.

[33] www.house.gov/acevedo-vila, 2 April 2000.

[34] www.house.gov/acevedo-vila, 9 May 2003.

[35] www.house.gov/acevedo-vila, 16 December 2003.

[36] United States Environmental Protection Agency News Release, Investigation of Areas of Vieques Begins, Monday, January 5, 2004.

[37] Agency for Toxic Substances and Disease Registry, communiqué, 18 December 2002.

[38] Associated Press, 11 and 16 January 2003.

[39] *Caribbean Insight*, vol. 26, No. 33, 26 September 2003.

[40] Associated Press, 2 October 2003.

[41] www.house.gov/acevedo-vila, 16 December 2003.

[42] Central Intelligence Agency, *World Factbook*, 2002.

[43] Economist Intelligence Unit, Puerto Rico Country Profile 2002.

[44] Reuters, 18 August 2003.

[45] *Caribbean Insight*, vol. 26, No. 23, 4 July 2003.

[46] Associated Press, 4 February 2004.

[47] Economic Intelligence Unit, Country Report Puerto Rico, December 2003.